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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **BAIL APPLN. 2538/2024**

KULDEEP

.....Petitioner

Through: Mr. C.M. Sangwan, Advocate.
versus

THE STATE OF NCT OF DELHI

.....Respondent

Through: Mr. Utkarsh, APP for the State with
SI Rajesh Kumar, P.S. Mukherjee
Nagar.
Mr. Ankur Minocha and Mr. Gaurav
Mahajan, Advocates for complainant.

CORAM:

HON'BLE MR. JUSTICE ANUP JAIRAM BHAMBHANI

ORDER

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11.09.2024

CRL.M.A. 27588/2024

By way of the present application, the petitioner seeks advancement of the date of hearing of the case, which is otherwise posted on 20.09.2024.

2. Learned counsel appearing for the petitioner submits, that *vide* order dated 15.07.2024 made by the learned Trial Court, proceedings under section 82 of the Code of Criminal Procedure 1973 ('Cr.P.C.') have been initiated against the petitioner, and the notice thereon is returnable for 15.09.2024; and therefore the present petition be taken-up for hearing urgently.
3. For the reasons stated in the application, which is duly supported by an affidavit, the application is allowed.
4. The BAIL APPLN. No.2538/2024 is taken up for hearing today *i.e.*, 11.09.2024. The date of 20.09.2024 given earlier, stands cancelled.



5. The application stands disposed-of.

BAIL APPLN. 2538/2024

6. By way of the present petition filed under section 438 of the Cr.P.C., the petitioner seeks anticipatory bail in case FIR No.346/2024 dated 08.05.2024 registered under sections 308/34 of the Indian Penal Code, 1860 ('IPC') at P.S.: Mukherjee Nagar, Delhi ('subject FIR').
7. Though the present petition has been filed under the provisions of the Cr.P.C., in the opinion of this court, on a plain but meaningful reading of section 531(2)(a) of the Bharatiya Nagarik Suraksha Sanhita 2023 ('BNSS'), proceedings are to be "*disposed of, continued, held or made*" in accordance with the Cr.P.C. *only* in cases where ***such proceedings***, viz. "*any appeal, application, trial, inquiry or investigation*", were already ***pending*** immediately before the date on which the BNSS came into force, i.e., 01.07.2024. It appears therefore, that while inserting the repeal and savings provision in section 531 of the BNSS, the intention of Parliament was to not disrupt on-going proceedings; and to therefore not change the governing law during the pendency of such proceedings.
8. Since the present petition is a fresh proceeding and has been *filed after 01.07.2024*, in the opinion of this court, the present petition ought to have been filed under the BNSS. Be that as it may, in order to obviate any unnecessary delay, the present petition is treated as one under section 482 of the BNSS.
9. Learned counsel appearing for the petitioner submits, that it is in fact the complainants (and not the petitioner), who were the aggressors in the incident that is subject matter of the present proceedings. He



submits the incident occurred when the petitioner, alongwith a friend, was riding a scooter, which hit the car that the complainants were driving. He submits that arising from that innocuous incident, it was the complainants who initiated the quarrel leading to ‘*hatha-pai*’, that is a physical scuffle between the parties.

10. Counsel accordingly submits, that since the petitioner is willing to co-operate in the investigation, he may be granted anticipatory bail, so that he does not have to face any high-handedness on the part of the investigating officer.
11. On the other hand, Mr. Utkarsh, learned APP appearing for the State and Mr. Ankur Minocha, learned counsel appearing for the complainants submit, that as narrated in the FIR, though the genesis of the matter was a small accident between the scooter being driven by the petitioner and the car being driven by the complainants, thereafter however the petitioner called his associates to the spot, and the petitioner and his associates together brutally beat-up the complainants.
12. Attention in this behalf is drawn to the complainants’ MLCs dated 21.04.2024, which show that one of the complainants Sukhpreet received ‘grievous’ injuries, including deformity of his right forearm, swelling over his right hand, swelling in the left elbow and forearm, contused lacerated wounds on his bilateral parietal and occipital regions; and the other victim namely Ishneet Singh Sethi suffered swelling on the right hand, hurt on the lower chest, and abrasions.
13. Learned counsel for the complainants has also shown to the court certain photographs of the victims, to submit that the injuries



sustained by Sukhpreet were extremely serious, inasmuch as two rods had to be implanted in his right forearm; and he was also brutally hit on the head, leading to some 18 stitches.

14. It is submitted that such brutal behaviour arising from an innocuous traffic accident shows the proclivity of the petitioner to commit heinous violence; and the petitioner is therefore a threat to the society, including to the complainants.
15. Upon being queried as to the delay in registration of the FIR, since the FIR came to be registered on 08.05.2024 in relation to an incident of 20.04.2024, learned APP explains, that initially there was some confusion as to whether the incident had occurred within the territorial jurisdiction of P.S.: Mukherjee Nagar or P.S.: Model Town, Delhi, since a part of the road on which the incident occurred falls within the jurisdiction of one police station and other part falls within the jurisdiction of the other police station. Besides, learned APP submits, that as narrated in the FIR itself, the complainant Sukhpreet has said that he did not approach the police for sometime since he was nursing his injuries; and was fearful of the assailants who were also pressurising him to compromise the matter, which delayed the recording of the complainant's statement.
16. Upon a conspectus of the facts and circumstances of the case, and in particular the brutal nature of the injuries sustained by at least one of the victims namely Sukhpreet, as seen from the MLC placed on record, this court is not inclined to grant to the petitioner anticipatory bail in the subject FIR.



17. The anticipatory bail petition is accordingly dismissed.
18. Pending applications, if any, also stand disposed-of.

ANUP JAIRAM BHAMBHANI, J

SEPTEMBER 11, 2024

V.Rawat